

S.B. Civil Writ Petition No.3763/03

02.01.2007

Hon'ble Mr. Justice Mohammad Rafiq

Mr. Vivek Sharma for petitioner.

Mr. Kinshul Jain for respondent.

In the present petition, the petitioner has challenged the order sheet dated 23.5.2003 which in fact is a notice requiring the petitioner to show cause as to why should it be not proceeded against, upon its failure to complete the construction of certain section of road in time as stipulated in the contract. It was stated therein that the petitioner was required by number of communications to complete the work in time. The petitioner was therefore required to pay the amount of compensation for the loss caused on account of delay in execution of the work.

Learned counsel for the respondent submits that when the petitioner failed to

complete the work in time contract for construction of the road in question was awarded to some other contractor and work has been completed. Apart from the fact the present matter is in the nature of contractual and factual dispute, when the work in question has already been got completed by some other contractor, the kind of relief that has been prayed for cannot be now granted in writ jurisdiction under article 226. The petitioner, if any of its grievances survives, may take the remedy either in Civil Court or in the form of Arbitration as envisaged in the agreement. I therefore do not find any substance in this petition. The petition is accordingly dismissed.

(Mohammad Rafiq), J.

Rs/-